

Amendment No. 2 to HB2118

Hazlewood
Signature of Sponsor

AMEND Senate Bill No. 2288

House Bill No. 2118*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-35-311(a), is amended by deleting the subsection and substituting:

(a)

(1) Whenever it comes to the attention of the trial judge that a defendant who has been released upon suspension of sentence has been guilty of a breach of the laws of this state or has violated the conditions of probation, the trial judge shall have the power to cause to be issued under the trial judge's hand:

(A) A warrant for the arrest of the defendant as in any other criminal case; or

(B) For a technical violation brought by a probation officer, and subject to the discretion of the judge, a criminal summons.

(2) Regardless of whether the defendant is on probation for a misdemeanor or felony, or whether the warrant or summons is issued by a general sessions court judge or the judge of a court of record, a probation officer or a peace officer of the county in which the probationer is found may execute the warrant or serve the summons.

SECTION 2. Tennessee Code Annotated, Section 40-35-311(b), is amended by deleting the language "Whenever any person is arrested" and substituting "Whenever a person is arrested or summoned".

SECTION 3. Tennessee Code Annotated, Section 40-35-311(d)(1), is amended by adding the following language at the end of the subdivision:

If the trial judge finds by a preponderance of the evidence that the defendant has violated the conditions of probation and suspension of sentence, then the court may revoke the defendant's probation and suspension of sentence, in full or in part, pursuant to § 40-35-310. The court may sentence the defendant to a sentence of probation for the remainder of the unexpired term.

SECTION 4. Tennessee Code Annotated, Section 40-35-311, is amended by deleting subdivision (d)(2) and substituting:

(2) Notwithstanding subdivision (d)(1), the trial judge shall not revoke a defendant's probation and suspension of sentence for a felony offense, whether temporarily under subdivision (e)(1) or otherwise, based upon one (1) instance of technical violation or violations.

SECTION 5. Tennessee Code Annotated, Section 40-35-311, is amended by deleting subdivision (d)(3) in its entirety.

SECTION 6. Tennessee Code Annotated, Section 40-35-311(e)(1), is amended by deleting the language "If the trial judge revokes a defendant's probation and suspension of sentence after finding, by a preponderance of the evidence, that the defendant engaged in conduct that is a second or subsequent instance of a technical violation" and substituting the language "If the trial judge finds by a preponderance of the evidence that the defendant has violated the conditions of probation and suspension of sentence for a felony offense by engaging in conduct that is a second or subsequent instance of a technical violation".

SECTION 7. Tennessee Code Annotated, Section 40-35-311(e)(2), is amended by deleting the language "a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, or absconding" and substituting instead:

a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, absconding, or contacting the defendant's victim in violation of a condition of probation

SECTION 8. Tennessee Code Annotated, Section 40-35-311, is amended by adding the following as a new subsection:

(g) As used in this section, "technical violation" means an act that violates the terms or conditions of probation but does not constitute a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, absconding, or contacting the defendant's victim in violation of a condition of probation.

SECTION 9. Tennessee Code Annotated, Section 40-28-122(c)(1), is amended by deleting the language "a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, or absconding" wherever it appears and substituting instead:

a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, absconding, or contacting the defendant's victim in violation of a condition of parole

SECTION 10. This act takes effect at 12:01 a.m. on July 1, 2022, the public welfare requiring it, and applies to court determinations made on or after that date.